

AMENDED IN ASSEMBLY JANUARY 25, 2016

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 501**

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**Introduced by Assembly Member Levine**

February 23, 2015

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An act to add Chapter 6 (commencing with Section 85285) to Part 3 of Division 35 of the Water Code, relating to resources.

### LEGISLATIVE COUNSEL'S DIGEST

AB 501, as amended, Levine. Resources: Delta research.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, requires the Delta Stewardship Council to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, meeting specified requirements. The act requires the Delta Independent Science Board to develop a scientific program relating to the management of the Delta.

This bill would require a person conducting Delta research, as defined, whose research is funded, in whole or in part, by the state, to take specified actions with regard to the sharing of the primary data, ~~samples, physical collections, metadata,~~ and other supporting materials created or gathered in the course of that research. The bill would make a researcher ineligible for state funding if the researcher does not substantially comply with these requirements within 6 months of completing the Delta research project, until the researcher complies with those requirements. ~~The bill would authorize the Delta Independent Science Board to adopt guidelines to provide adjustments to, and, where essential, exceptions from, these requirements and would exempt the~~

~~adoption of these guidelines from the procedural requirements for the adoption of regulations. The bill would require a state agency that funds or participates in Delta research to implement policies to disseminate and share Delta research results, including, but not limited to, making (1) make it a condition of a Delta research grant that the grantee implement a data management plan that specifies how the grantee will share research data, collections, metadata, and findings with other researchers; researchers and (2) adopt policies and programs to disseminate and share Delta research results, unless the agency determines that sufficient funds are not available for that purpose. The bill would authorize the requirement to adopt policies and programs to be met by an interagency group adopting coordinated guidelines to provide consistent procedural and technical requirements for Delta research and adjustments to, and, where essential, exceptions from, the bill's requirements and would exempt the adoption of these coordinated guidelines from the procedural requirements for the adoption of regulations.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 6 (commencing with Section 85285) is  
2 added to Part 3 of Division 35 of the Water Code, to read:

3  
4 CHAPTER 6. DISSEMINATION AND SHARING OF STATE-FUNDED  
5 DELTA RESEARCH DATA

6  
7 85285. For purposes of this chapter, the following definitions  
8 shall apply:

9 (a) "Delta research" means scientific inquiry that meets one or  
10 both of the following conditions:

11 (1) The San Francisco Bay or the Sacramento-San Joaquin Delta  
12 is, in whole or in part, the locus of the research.

13 (2) The research addresses environmental factors relevant to  
14 this division, including, but not limited to, hydrodynamics, salinity,  
15 geomorphology, studies related to aquatic species, and water  
16 quality, including mercury contamination, in the Sacramento River,  
17 the San Joaquin River, or any tributary, including any

1 impoundment on any tributary, of the Sacramento or San Joaquin  
2 Rivers.

3 (b) “Machine readable” means data encoded on an appropriate  
4 medium and in a form suitable for processing by computer.

5 ~~(b)~~

6 (c) “Researcher” means a person who conducts Delta research  
7 and whose research is funded, in whole or in part, by the state,  
8 including, but not limited to, by a research grant.

9 85285.5. It is the intent of the Legislature that ~~persons~~ a person  
10 conducting Delta research ~~have~~ has a responsibility, as ~~members~~  
11 a member of the scientific community, to share results and findings  
12 with other researchers for the public benefit, including, but not  
13 limited to, data, samples, and other material collected while  
14 conducting the research. benefit.

15 85286. (a) Except as provided in ~~Section 85286.5~~, coordinated  
16 guidelines adopted pursuant to Section 85287, if any, a researcher  
17 shall do all of the following:

18 (1) Implement a data management plan that specifies how the  
19 researcher will share research data, metadata, and findings with  
20 other researchers in a form that is machine readable.

21 ~~(a)~~

22 (2) Provide the Delta Science Program with access to all primary  
23 data created for conducting Delta research.

24 ~~(b)~~

25 (3) Promptly prepare and submit for publication, with authorship  
26 that accurately reflects the contributions of those involved, all  
27 significant findings from Delta research.

28 ~~(c)~~

29 (4) Permit and encourage the publication of Delta research by  
30 those actually performing Delta research, unless a state funding  
31 recipient intends to publish or disseminate those findings by itself.

32 ~~(d)~~

33 (5) Share with other researchers, at no more than incremental  
34 cost and within a reasonable time, the primary data, ~~samples~~,  
35 ~~physical collections~~, metadata, and other supporting materials  
36 created or gathered in the course of conducting Delta research.

37 ~~(e)~~

38 (6) Encourage and facilitate the sharing of the primary data,  
39 ~~samples~~, ~~physical collections~~, metadata, and other supporting

1 materials created or gathered in the course of conducting Delta  
2 research.

3 (f)

4 (7) Release privileged or confidential information only in a form  
5 that protects the privacy of individuals and subjects involved.

6 *(b) It is the intent of the Legislature that this section provide*  
7 *the Delta Science Program, as described in Section 85280, with*  
8 *the authority to request data when the Delta Science Program*  
9 *deems, at its discretion, that data is relevant, but that this section*  
10 *not create an obligation or duty upon the Delta Science Program*  
11 *to request or manage data.*

12 ~~85286.5. The Delta Independent Science Board established~~  
13 ~~pursuant to Section 85280 may adopt guidelines to provide~~  
14 ~~adjustments to, and, where essential, exceptions from, the~~  
15 ~~requirements of this chapter, for the purposes of safeguarding the~~  
16 ~~rights of individuals and subjects, or the validity of the results, and~~  
17 ~~the integrity of collections, or accommodating legitimate research~~  
18 ~~interests. The guidelines adopted pursuant to this section are not~~  
19 ~~regulations for purposes of, and shall not be subject to, Chapter~~  
20 ~~3.5 (commencing with Section 11340) of Part 1 of Division 3 of~~  
21 ~~Title 2 of the Government Code.~~

22 85287. (a) A state agency that funds or participates in Delta  
23 research shall implement policies to disseminate and share Delta  
24 research results, including, but not limited to, making make it a  
25 condition of a Delta research grant that the grantee share research  
26 data, collections, and findings with other researchers. *implement*  
27 *a data management plan, as required by paragraph (1) of*  
28 *subdivision (a) of Section 85286.*

29 (b) (1) *A state agency that funds or participates in Delta*  
30 *research shall adopt policies and programs to disseminate and*  
31 *share Delta research results, unless the agency determines that*  
32 *sufficient funds are not available for that purpose.*

33 (2) *The requirements of this subdivision may be met by an*  
34 *interagency group that includes, but need not be limited to, the*  
35 *department, the State Water Resources Control Board, the*  
36 *Department of Fish and Wildlife, the Delta Stewardship Council,*  
37 *and the Sacramento-San Joaquin Delta Conservancy adopting*  
38 *coordinated guidelines to provide consistent procedural and*  
39 *technical requirements for Delta research, including, but not*  
40 *limited to, standardized types of information, and adjustments to,*

1 *and, where essential, exceptions from, the requirements of this*  
2 *chapter, for the purposes of safeguarding the rights of individuals*  
3 *and subjects, or the validity of the results, or accommodating*  
4 *legitimate research interests. Coordinated guidelines adopted*  
5 *pursuant to this paragraph are not regulations for purposes of,*  
6 *and shall not be subject to, Chapter 3.5 (commencing with Section*  
7 *11340) of Part 1 of Division 3 of Title 2 of the Government Code.*

8 *(c) To the extent permitted by federal law, a state agency that*  
9 *funds or participates in Delta research may accept any funds,*  
10 *services, equipment, or grants to further the purpose of this section.*

11 85287.5. A researcher that does not substantially comply with  
12 the requirements of Section 85286 within six months of completing  
13 the Delta research project is not eligible for state funding until the  
14 researcher complies with those requirements.